UNITED NATIONS **A**

General Assembly

Distr.
GENERAL

A/51/688/Add.3
7 May 1997

ORIGINAL: ENGLISH

Fifty-first session
Agenda item 112

REVIEW OF THE EFFICIENCY OF THE ADMINISTRATIVE AND FINANCIAL FUNCTIONING OF THE UNITED NATIONS

Gratis personnel provided by Governments and other entities

Report of the Secretary-General

Addendum

I. INTRODUCTION

1. This addendum is submitted in response to General Assembly decision 51/466 of 3 April 1997, by which the Secretary-General was requested, inter alia, to review the proposed guidelines annexed to his report on gratis personnel provided by Governments and other entities (A/51/688 and Corr.1) and to report thereon to the Assembly before 12 May 1997 for its consideration during the second part of its resumed fifty-first session.

2. The other information requested by the General Assembly in that decision, concerning the methodology and level to be applied to administrative support costs, including their legislative basis, and an update of the information provided in the Secretary-General's report, appears in addenda 1 and 2, respectively.

3. As is the case in addendum 2 to the report on updated information, and taking into account the fact that the United Nations Special Commission reports directly to the Security Council on all matters related to its activities and that its staff is governed by a special regime set out in the report of the Secretary-General to the Security Council on the implementation of paragraph 9 (b) (i) of Security Council resolution 687 (1991) (S/22508 of 18 April 1991), it is proposed that the Special Commission be excluded from the scope of the guidelines.

4. The requested review of the guidelines for acceptance of gratis personnel has been conducted. Its outcome is set out below.

II. REVIEW OF GUIDELINES

Guideline 1: Agreement with the United Nations. There shall be an agreement established between the United Nations and the donor Government or other entity for the acceptance of gratis personnel. Attached to that agreement will be an undertaking between the United Nations and the individual concerned.

5. The essential feature of gratis personnel is that they are directly and fully remunerated by their Government or other donor entity for services rendered to the United Nations. It is essential that this fact be disclosed and that the respective obligations of the United Nations, the donor entity and the individuals concerned be clearly specified.

6. As is the case at present, the individuals who will serve as gratis personnel under the guidelines will play no part in negotiating the basic agreement between the United Nations and the donor. They will serve under the terms agreed upon by the United Nations and the donor (as opposed to the conditions of service for United Nations staff, which are determined by the General Assembly and/or the International Civil Service Commission). There will be no individual offer and acceptance of contractual terms as to functions, level of remuneration or duration of service.

7. Under the guidelines, the essential duties and obligations that the United Nations will expect each individual brought in as gratis personnel to respect will be spelled out both in the agreement with the donor and in the individual undertaking signed by the gratis personnel.

Guideline 2: Selection procedure. Several candidates should be submitted by the donor to the substantive department or office. The programme manager should assess all candidates against the relevant criteria to ascertain that the best qualified candidate is selected. Those criteria would be consistent with the basic criteria applicable to corresponding categories of United Nations staff in terms of educational background and the length, relevance and quality of working experience. The Office of Human Resources Management would provide the appropriate guidelines to programme managers.

8. This section of the guidelines will be revised to ensure that Member States are informed of the needs that may be met by gratis personnel, as those needs are defined by the General Assembly after consideration of the recommendations of the Advisory Committee on Administrative and Budgetary Questions, as well as of the required qualifications.

9. As a means of ensuring that Member States are informed of the needs that may be met by gratis personnel, a questionnaire will be sent to all Member States in order to solicit their interest in providing gratis personnel who possess the types of expertise required, which will be identified by category in

the questionnaire. This will allow departments to approach Member States that have indicated such an interest when the need arises in any area of expertise. Member States would also be asked to inform the Secretariat of any changes that may arise in their initial response to the questionnaire.

10. Given that at the outset, all Member States will have been approached to express their interest in providing gratis personnel with various types of expertise, it is proposed that, in cases where the Secretariat approached more than one Member State (according to the availability of expertise reflected in the completed questionnaires), only one qualified candidate would be requested from each Member State. In cases where only one Member State had indicated availability of the required expertise, a selection of candidates would be requested.

> Guideline 3: Functions. Gratis personnel should not be used to fill posts or discharge functions normally authorized under the assessed regular programme budget, peacekeeping budgets or the peacekeeping support account, especially with respect to political, legal and administrative functions. Under no circumstances should they be allowed to supervise staff members in the exercise of their official duties; nor should they be assigned functions that are of a sensitive or confidential nature.

11. The definition of functions that may be performed by gratis personnel will be revised in the light of the results of the consideration by the Fifth Committee of the Advisory Committee's recommendations.

> Guideline 4: Status. Gratis personnel, while performing functions for the Organization, would normally have the status of "experts on mission" for the purposes of the Convention on the Privileges and Immunities of the United Nations, except as otherwise provided in the agreement with the donor.

12. The status of experts on mission is defined in article VI, sections 22 and 23, of the Convention on the Privileges and Immunities of the United Nations. No change would appear to be necessary.

> Guideline 5: Length of services. The agreement between the United Nations and the donor would specify the length of the services to be rendered. The term of the agreement would be one year but, under exceptional circumstances, may be extended for a maximum of one further year.

13. In the case of specialized functions for which no expertise exists in the Secretariat, it may be necessary for gratis personnel to serve for an initial period of up to one year with the possibility of further extensions; this should not be subject in all cases to an absolute limit of two years.

14. This section will be revised to reflect the decision of the General Assembly on the maximum allowable duration of services, which should be allowed to vary depending on the nature and estimated duration of the functions to be discharged.

Guideline 6: Remuneration, medical and life insurance, pension and other social security benefits. The agreement between the United Nations and the donor would place on the donor sole responsibility for payment of all expenses in connection with the services of gratis personnel, including salaries, allowances and benefits to which the individuals involved are entitled, and travel costs to and from the location where the gratis personnel will be based. The donor would also undertake to ensure that, during the entire period of service under the agreement, gratis personnel are covered by adequate medical and life insurance, as well as service-incurred insurance coverage for illness, disability or death.

15. No change would appear to be necessary.

Guideline 7: Leave entitlements. The agreement between the United Nations and the donor would specify that leave plans of the gratis personnel should be communicated in advance to the recipient offices for appropriate authorization in order to allow for proper planning of the work to be performed.

16. In order to ensure effective management of individual leave entitlements, leave plans must be communicated in advance by the gratis personnel to their supervisors. For the same reason, this clause will be revised to indicate that leave may be taken subject to the exigencies of service, as determined by the department or programme manager.

Guideline 8: Performance of services and applicable standards of conduct. The agreement between the United Nations and the donor would place on the donor the duty to ensure that gratis personnel comply with the following obligations:

(a) Gratis personnel shall perform their functions under the authority and in full compliance with the instructions of [appropriate official in the department or office concerned] and any person acting on his or her behalf;

(b) Gratis personnel shall undertake to respect the impartiality and independence of [Secretariat and/or relevant organ/body] and shall neither seek nor accept instructions regarding the services performed under the agreement from any Government or from any authority external to the Organization;

(c) Gratis personnel shall refrain from any conduct which would adversely reflect on the United Nations [and/or relevant organ/body] and shall not engage in any activity which is incompatible with the aims and objectives of the United Nations;

(d) Gratis personnel, although not staff members, shall comply with all applicable rules, regulations, instructions, procedures or directives;

(e) Gratis personnel shall exercise the utmost discretion in all matters relating to their functions and shall not communicate at any time without the authorization of the [appropriate high official in the

department or office concerned] to the media or to any institution, person, Government or other external authority any information that has not been made public, and which has become known to them by reason of their association with the [department/office]. They shall not use any such information without the written authorization of [appropriate high official in the department/office concerned] and in any event, such information shall not be used for personal gain. These obligations do not lapse upon expiration of this agreement.

All the above duties and obligations would also be spelled out in the undertaking to be signed by each individual provided as gratis personnel.

17. No change would appear to be necessary. As indicated in the last paragraph of this guideline, the duties and obligations of gratis personnel are to be spelled out both in the agreement with the donor and in the individual undertaking to be signed by the gratis personnel.

Guideline 9: Accountability. The agreement between the United Nations and the donor would provide for each party the right to terminate the agreement upon one month's written notice to the other party. Should the conduct or performance of the gratis personnel be such as to require earlier termination of their services, the matter would be handled under a "settlement of disputes" clause providing that any dispute, controversy or claim arising out of, or relating to, the agreement shall be settled by negotiation or other mutually agreed mode of settlement.

18. As suggested by several Member States, the performance of gratis personnel discharging functions for a substantial period of time should be appraised in line with the Performance Appraisal System. The guidelines will be amended to that end.

19. The agreement with the donor would give the United Nations the right to terminate the agreement, and the services of any particular individual, upon one month's written notice to the other party to the agreement. This clause could be used in case of unsatisfactory service or any other problem which, in the view of the Secretary-General, would require termination of service before the term specified in the agreement with the donor.

20. It is proposed that a specific provision be included in the agreement to allow for immediate cessation of functions when gratis personnel have acted in a manner which, under the Staff Regulations and Rules, would be seen as serious misconduct. Any serious breach of the duties and obligations of the gratis personnel that would justify separation before the expiration of the normal notice period of one month would be reported to the donor. If there were no agreement on an immediate separation, the matter might have to be resolved under a "settlement of disputes" clause. At a minimum, the Secretary-General would always have the authority to bar access to the premises.

21. The United Nations could make a claim against the donor for financial loss resulting from gross negligence, including wilful violation or reckless disregard of applicable rules and policies. If no agreement could be reached

with the donor, the claim would be handled under the "settlement of disputes" clause.

Guideline 10: Third-party claims. Any claim made against the United Nations arising out of, or relating to, the agreement, including actions or omissions of gratis personnel while providing services to the United Nations, would be governed by the "settlement of disputes" clause mentioned above.

22. No change would appear to be necessary.

Guideline 11: Programme support costs. The agreement would specify the obligations of the donor Government or entity to reimburse the Organization at the standard rate of 13 per cent for programme support costs related to gratis personnel, pursuant to the Financial Regulations and Rules. An additional 1 per cent shall be charged, if applicable, for compensation to gratis personnel in the event of injury, illness or death attributable to the performance of services on behalf of the United Nations. Such a standard rate could be applied directly to the donor or to a relevant trust fund established for the implementation of activities to be carried out by the gratis personnel, on the condition that the donor has also made to that trust fund a voluntary contribution that could be used for such purposes.

23. The guidelines will be revised in the light of the results of the consideration by the Fifth Committee of the Advisory Committee's recommendations.